

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket No. 006119.00007)

In re U.S. Patent Application of Johnston,)	
et al.)	
)	
Application No. 10/611,458)	Group Art Unit: 3624
)	
Filed: July 1, 2003)	Examiner: Kyle
)	
For: Derivatives Trading Methods That)	
Use a Variable Order Price and a)	
Hedge Transaction)	

SUPPLEMENTAL RESPONSE TO RESTRICTION REQUIREMENT

MS: Amendment
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313

Sir:

In response to the Office Action mailed August 26, 2005, please consider the instant application as follows:

Amendments to the Claims are reflected in the Listing of Claims, which begins on page 2 of this paper.

Remarks/Arguments begin on page 8 of this paper.

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

1. (Original) A method of hedging risks associated with the purchase of a variable defined derivative product, the method comprising:
 - (a) executing at a match system a variable defined derivative product order;
 - (b) receiving order risk data from an order risk management module;
 - (c) using a best efforts approach to locate a potential hedge transaction that corresponds to the derivative product order;
 - (d) comparing data of the potential hedge transaction to the order risk data;and
 - (e) executing the potential hedge transaction when a rule is not violated.
2. (Original) The method of claim 1, wherein (a) comprises calculating a price of the derivative product order.
3. (Original) The method of claim 2, wherein the price of the derivative product is a function of an original order price, an updated price of an underlying product and at least one price determination variable value based on a predetermined formula.
4. (Original) The method of claim 3, wherein the at least one price determination variable value includes values for a delta variable and a gamma variable and the predetermined formula comprises:

Change in price of the order =

$$\text{ChgUnderlyingPrice} * \text{delta} + (1/2(\text{ChgUnderlyingPrice}^2 * \text{gamma}))$$

where ChgUnderlyingPrice is the change in price of the underlying product, delta is the rate of change of the price of the derivative product with the price of the underlying product and gamma is the rate of change of delta with respect to the derivative product price.

5. (Original) The method of claim 4, wherein the order risk data comprises a value of delta.

6. (Original) The method of claim 5, wherein the order risk data comprises a value of gamma.

7. (Original) The method of claim 1, wherein (c) comprises using a match system that is different than the match system used in (a).

8. (Original) The method of claim 1, wherein the derivative product comprises an options contract and the hedge product comprises a futures contract.

9. (Original) The method of claim 1, wherein information for the hedge product transaction is included in an order for the variable defined derivative product.

10. (Original) The method of claim 1, wherein the potential hedge transaction comprises a fill or kill transaction.

11. (Original) The method of claim 1, wherein the potential hedge transaction comprises a fill and kill transaction.

12. (Original) The method of claim 1, wherein the rule in (e) requires that the order risk data not be exceeded after the potential hedge transaction.

13. (Original) The method of claim 1, wherein the rule in (e) requires that the order risk data not be exceeded before the potential hedge transaction.

14. (Original) The method of claim 1, wherein the potential hedge transaction includes a plurality of contracts and (e) comprises:

(i) identifying the lowest number of the contracts that will cause the order risk date to be exceeded; and

(ii) executing a transaction that includes the number of contracts identified in (i).

15. (Original) The method of claim 1, wherein the potential hedge transaction includes a plurality of contracts and (e) comprises:

- (i) identifying the lowest number of the contracts that will cause the order risk date to be exceeded; and
- (ii) executing a transaction that includes one less than the number of contracts identified in (i).

16. (Withdrawn) A method of synthetically matching unresolved hedge transaction orders for orders belonging to a common class, the method comprising:

- (a) prioritizing unresolved hedge transaction orders having a positive value of an order risk variable;
- (b) prioritizing unresolved hedge transaction orders having a negative value of the order risk variable; and
- (c) synthetically matching the unresolved hedge transaction orders according to the priorities identified in (a) and (b).

17. (Withdrawn) The method of claim 16, further including:

- (d) identifying any residual unresolved hedge transactions that remain after (c); and
- (e) when at least one residual unresolved hedge transaction exists, locating at least one potential hedge transaction.

18. (Withdrawn) The method of claim 17, further including:

- (f) executing the potential hedge transaction when an order risk data rule is not violated.

19. (Withdrawn) The method of claim 18, wherein the rule in (f) requires that the order risk data not be exceeded after the potential hedge transaction.

20. (Withdrawn) The method of claim 18, wherein the rule in (f) requires that the order risk data not be exceeded before the potential hedge transaction.

21. (Withdrawn) The method of claim 18, wherein the potential hedge transaction includes a plurality of contracts and (f) comprises:

- (i) identifying the lowest number of the contracts that will cause the order risk date to be exceeded; and
- (ii) executing a transaction that includes the number of contracts identified in (i).

22. (Withdrawn) The method of claim 18, wherein the potential hedge transaction includes a plurality of contracts and (f) comprises:

- (i) identifying the lowest number of the contracts that will cause the order risk date to be exceeded; and
- (ii) executing a transaction that includes one less than the number of contracts identified in (i).

23. (Original) A method of executing a variable defined derivative product order that is contingent on the existence of a corresponding hedge transaction, the method comprising:

- (a) receiving at a match system a variable defined order for a derivative product, where the variable defined order comprises a derivative product identifier, an underlying product identifier and at least one price determination variable;
- (b) identifying a potential derivative product transaction;
- (c) searching for a hedge product transaction that corresponds to the potential derivative product transaction; and
- (d) executing the derivative product transaction only when a hedge transaction is available.

24. (Original) The method of claim 23, further including (i) calculating a price of the derivative product order.

25. (Original) The method of claim 24, wherein (i) comprises using a formula supplied by the match system.

26. (Original) The method of claim 24, wherein the price of the derivative product is a function of an original order price, an updated price of the underlying product and the at least one price determination variable value based on a predetermined formula.

27. (Original) The method of claim 26, wherein the at least one price determination variable value includes values for a delta variable and a gamma variable and the predetermined formula comprises:

$$\text{Change in price of the order} = \text{ChgUnderlyingPrice} * \text{delta} + (1/2(\text{ChgUnderlyingPrice}^2 * \text{gamma}))$$

where ChgUnderlyingPrice is the change in price of the underlying product, delta is the rate of change of the price of the derivative product with the price of the underlying product and gamma is the rate of change of delta with respect to the derivative product price.

28. (Original) The method of claim 23, wherein (c) comprises searching for the hedge product transaction on the same match system as a match system used for the derivative product transaction.

29. (Original) The method of claim 28, wherein the hedge transaction and derivative product transaction are both locked in before either transaction is executed.

30. (Original) The method of claim 23, wherein the derivative product comprises an options contract and the hedge product comprises a futures contract.

31. (Original) The method of claim 23, wherein information for the hedge product transaction is included in the variable defined derivative product order.

32. (Original) The method of claim 23, wherein (d) comprises executing the derivative product transaction at a first exchange and executing the hedge product transaction at an exchange other than the first exchange.

33. (Original) A computer-readable medium containing computer-executable instructions for causing a match system to perform the steps comprising:

- (a) receiving a variable defined order for a derivative product, where the variable defined order comprises a derivative product identifier, an underlying product identifier and at least one price determination variable;
- (b) identifying a potential derivative product transaction;

(c) searching for a hedge product transaction that corresponds to the potential derivative product transaction; and

(d) executing the derivative product transaction only when a hedge transaction is available.

34. (Original) A computer-readable medium containing computer-executable instructions for causing a match system to perform the steps comprising:

(a) executing a variable defined derivative product order;

(b) receiving order risk data from an order risk management module;

(c) using a best efforts approach to locate a potential hedge transaction that corresponds to the derivative product order;

(d) comparing data of the potential hedge transaction to the order risk data;
and

(e) executing the potential hedge transaction when the order risk data is not exceeded.

35. (Original) A computer-readable medium containing computer-executable instructions for causing a match system to perform the steps comprising:

(a) executing a variable defined derivative product order;

(b) receiving order risk data from an order risk management module;

(c) using a best efforts approach to locate a potential hedge transaction that corresponds to the derivative product order;

(d) comparing data of the potential hedge transaction to the order risk data;
and

(e) executing the potential hedge transaction up to a limit amount of risk.

REMARKS/ARGUMENTS

In the Office Action mailed August 26, 2005, claims 1-35 were deemed subject to a restriction. More specifically, restriction is required for Group I (claims 1-15 and 23-35) and Group II (Claims 16-22).

The Applicant discussed the Office Action of August 26, 2005 with Examiner Kyle on September 1, 2005. During the telephone conference the Applicant noticed a typographical error in the response filed by the Applicant yesterday. This response clarifies that:

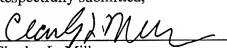
The Applicant Elects Group I Without Traverse.

Claims 16-22 have been withdrawn.

As mentioned during the telephone conference of September 1, 2005, the Applicant requests that the Examiner contact the Applicant prior to examining the application to schedule a brief pre-examination interview.

The Applicant's election is without prejudice or admission with respect to the Applicant's right to re-file the withdrawn claims in a continuing application. The claims as now presented are believed to be in allowable condition. The Applicant respectfully requests consideration of the application and allowance of all pending claims. Please feel free to contact the undersigned should any questions arise with respect to this case that may be addressed by telephone.

Date: September 1, 2005

Respectfully submitted,
By: 
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TRANSMITTAL FORM	Application Number	10/611,458
	Filing Date	July 1, 2003
	First Named Inventor	Johnston
	Art Unit	3624
	Examiner Name	Kyle
(to be used for all correspondence after initial filing)		
Total Number of Pages in This Submission	10	Attorney Docket Number 006119.00007

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Response to Restriction Requirement Fax Coversheet
<div style="border: 1px solid black; display: inline-block; padding: 2px;">Remarks</div> The Commissioner is authorized to charge any fees in connection with this correspondence to Deposit Account No. 19-0733.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm	Banner & Witcoff, Ltd.		
Signature			
Printed Name	Charles L. Miller		
Date	September 1, 2005	Reg. No.	43,805

CERTIFICATE OF TRANSMISSION/MAILING		
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.		
Signature		
Typed or printed name	Thomas WILSON	Date 9-1-05

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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FACSIMILE TRANSMITTAL SHEET

TO:	MR: AMENDMENT	FROM:	Charles Miller
COMPANY:	USPTO	DATE:	September 1, 2005
FAX NUMBER:	671-273-5500	TOTAL NO. OF PAGES:	10 including cover page
RE:		OUR REFERENCE NO.	006119.0007

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,458	07/01/2003	Scott Johnston	06119.00007	1628
22908	7590	12/07/2005		
BANNER & WITCOFF, LTD. TEN SOUTH WACKER DRIVE SUITE 3000 CHICAGO, IL 60606				
EXAMINER KYLE, CHARLES R				
ART UNIT		PAPER NUMBER		
3624				

DATE MAILED: 12/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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DEC 13 2005

Response Due: 1/7/06

Last Day: 6/7/06

PROCESSED
DEC 13 2005

Notice of Non-Compliant Amendment (37 CFR 1.121)

Application No.

10/611,458

Examiner

Charles Kyle

Applicant(s)

JOHNSTON ET AL.

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on August 31, 2005 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

☐ 1. Amendments to the specification:

- ☐ A. Amended paragraph(s) do not include markings.
☐ B. New paragraph(s) should not be underlined.
☐ C. Other _____.

☐ 2. Abstract:

- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
☐ B. Other _____.

☐ 3. Amendments to the drawings:

- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
☐ C. Other _____.

☒ 4. Amendments to the claims:

- ☐ A. A complete listing of all of the claims is not present.
☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
☒ E. Other: See Continuation Sheet.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted within the time period set forth in the final Office action.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or
Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Charles Kyle

Continuation of 4(e) Other: Restricted Groups I and II were as follows: Group I - Claims 1-15 and 23-35, drawn to portfolio and risk management, classified in class 705, subclass 36 R. Group II - Claims 16-22, drawn to trading and matching, classified in class 705, subclass 37. Applicant has incorrectly elected Claims not in the original Groups at page 8 of the response. Applicant incorrectly elects Group II and then withdraws the Claims. Applicant's intent is unclear. Correction is required.